

CENTRAL VALLEY FLOOD PROTECTION BOARD

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September 14, 2011

Ms. Terry Macaulay, P.E.
Acting Deputy Executive Officer
Delta Stewardship Council
980 9th Street, Suite 1500
Sacramento, California 95814

Dear Ms. Macaulay:

The Central Valley Flood Protection Board (Board) hereby submits the following comments on the Fifth Staff Draft of the Delta Plan, dated August 2, 2011. The comments address matters discussed in **Chapter 7 – Reduce Risk to People, Property, and State Interests in the Delta.**

Page 165, Lines 10-18:

Encroachments located within project levees and project levee right-of-way are jurisdictionally permitted through the Central Valley Flood Protection Board. The California Code of Regulations, Title 23 Waters, Division 1 Central Valley Flood Protection Board (Title 23) describes this encroachment permit process. The encroachment permit process applies to all projects existing and proposed within State/federal flood control levees, designated floodways, bypasses, and regulated streams. There is no exemption for ecosystem restoration projects, ongoing agricultural or flood management activity. Board permits may also be required for Covered Actions listed in Table 7.1.

The Central Valley Flood Protection Board must be consulted for any encroachment involving facilities of the State Plan of Flood Control, which are listed in Title 23. This comment was made on the Third Draft of the Delta Plan but was not incorporated into either the Fourth or Fifth Draft. **The Board insists that this comment be incorporated into the Delta Plan.**

Page 165, Lines 19-32:

Board permits are required for any existing or proposed projects located in the following areas. There is no exemption from the Board's permit process for ecosystem restoration projects, ongoing agricultural or flood management activity in any of these Board-jurisdictional areas:

- Areas located in the Yolo Bypass from Fremont Weir through Cache Slough to the Sacramento River including the confluence of Putah creek into the bypass;
- The Cosumnes River-Mokelumne River confluence;

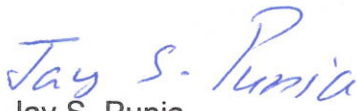
- The Lower San Joaquin River, Lower San Joaquin River Floodplain Bypass, Paradise Cut, and any other slough, bypass, or channel protected by State/federal levees included in the State Plan of Flood Control and Central Valley Flood Protection Plan.

Page 165, Lines 25-32:

The Board recommends that any modifications proposed for the Lower San Joaquin River Floodplain Bypass should be fully vetted in the Delta Plan Environmental Impact Report on a programmatic level. Again, this comment was submitted against the Third Draft but not acknowledged in either the Fourth or Fifth Draft.

Thank you for allowing the Central Valley Flood Protection Board to comment on the Fifth Draft Delta Plan. We sincerely hope that you will incorporate these comments into the Delta Plan. If you have any questions, please contact Mr. Len Marino at (916) 574-0608 or email at lmario@water.ca.gov.

Sincerely,


Jay S. Punia
Executive Officer

cc: All Board members
Deborah Smith, Deputy Attorney General